

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

ELDON G. OSBORN,

Plaintiff,

v.

DUNKLIN COUNTY,

Defendant.

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No. 1:19-cv-203-HEA

OPINION, MEMORANDUM AND ORDER

This matter is before the Court upon review of the file. Plaintiff initiated this case on November 18, 2019, and filed a motion for leave to proceed *in forma pauperis*. The Court granted the motion and reviewed the complaint pursuant to 28 U.S.C. § 1915(e)(2), and determined that it failed to state a claim upon which relief may be granted against the defendant. On April 3, 2020, the Court entered an order directing plaintiff to file an amended complaint to cure the defects. In the order, the Court clearly explained why the complaint was subject to dismissal, gave plaintiff clear instructions about how to prepare the amended complaint, and cautioned him that his failure to timely comply with the order would result in the dismissal of his case without further notice.

Plaintiff's response was due to the Court on May 4, 2020. To date, however, he has neither complied with the Court's order, nor sought additional time to do so. The Court gave plaintiff meaningful notice of what was expected, cautioned him that his case would be dismissed if he failed to timely comply, and gave him significant additional time to comply. Therefore, this action will be dismissed without prejudice due to plaintiff's failure to comply with this Court's April 3, 2020 order and his failure to prosecute his case. *See* Fed. R. Civ. P. 41(b); *see also Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (a district court has the power to dismiss an action for the

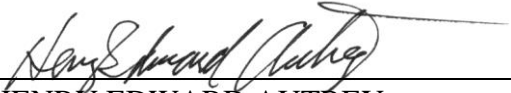
plaintiff's failure to comply with any court order); *Dudley v. Miles*, 597 F. App'x 392 (8th Cir. 2015) (per curiam) (affirming dismissal without prejudice where *pro se* plaintiff failed to file an amended complaint despite being cautioned that dismissal could result from failure to do so).

Accordingly,

IT IS HEREBY ORDERED that this action is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

IT IS HEREBY CERTIFIED that an appeal from this dismissal would not be taken in good faith.

Dated this 10th day of June, 2020.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE